

## UNITED STATES DISTRICT COURT

for the

Western District of Oklahoma

United States of America

v.

Phillip Niles Martin

Case No. M-23- 420 -AMG

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 30, 2022, and May 13, 2023, in the county of Oklahoma in the  
Western District of Oklahoma, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 922(a)(1)(A)	Dealing in Firearms without a License
18 U.S.C. § 922(a)(1)(A)	Dealing in Firearms without a License

This criminal complaint is based on these facts:

See attached Affidavit of Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent (SA) David J. McCauley, Jr., which is incorporated and made a part hereof by reference.

☒ Continued on the attached sheet.


Complainant's signature

David J. McCauley, Jr., Special Agent (ATF)

Printed name and title

Sworn to before me and signed in my presence.

Date: 5/30/2023City and state: Oklahoma City, Oklahoma


Judge's signature

AMANDA MAXFIELD GREEN, U.S. Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**STATE OF OKLAHOMA                    )**  
**)**  
**COUNTY OF OKLAHOMA                )**

**AFFIDAVIT OF PROBABLE CAUSE  
IN SUPPORT OF ARREST WARRANT**

I, David McCauley, having been duly sworn, depose and state as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a division of the United States Department of Justice, having been so employed since June 2018. Prior to my employment with the ATF, I was a Police Officer in Hampton, Virginia for seven years. I am a graduate of the Department of Homeland Security's Criminal Investigator Training program as well as the ATF Special Agent Basic Training Program. As a Special Agent with ATF, I am vested with the authority to investigate violations of federal laws including Title 18 of the United States Code.

2. I have been assigned to the ATF Oklahoma City Field Office since December 2018. I am familiar with the information contained in this Affidavit through personal investigation and/or information received from other law enforcement officers, mentioned herein, who have participated in and/or have contributed documentary reports of their investigative efforts in this matter. This Affidavit contains information necessary to support the Complaint and is not intended to include every fact or matter observed or known by me.

3. This Affidavit is presented for the limited purpose of seeking a federal Complaint and arrest warrant for **Phillip Niles MARTIN (MARTIN)**, a male with the date of birth xx/xx/1955. This Complaint and arrest warrant are sought for **MARTIN's**

violations of Title 18, United States Code, Section 922(a)(1)(A).

**FACTS SUPPORTING PROBABLE CAUSE**

4. On June 13, 2022, Special Agent (SA) David McCauley received information regarding suspected illegal firearms sales at Mary's Swap Meet, a public flea market located at 7905 NE 23rd Street, Oklahoma City, Oklahoma, which is within the Western District of Oklahoma. Specifically, two separate individuals, independently of one another, indicated that two males, later identified as **MARTIN** and T.F., were selling firearms at Mary's Swap Meet at nearly twice their actual value. One party reported further that **MARTIN** and T.F. sold firearms with obliterated or filed off serial numbers as well, noting that they removed these particular firearms from their table when uniformed police officers were nearby.

5. SA McCauley opened an investigation into **MARTIN** and T.F. and determined that neither **MARTIN** nor T.F. is a licensed importer, licensed manufacturer, or licensed dealer of firearms.

6. SA McCauley conducted queries into ATF records regarding **MARTIN** and T.F. and learned that **MARTIN** was the subject of two previous investigations by the ATF Oklahoma City Field Office II. In 2013, **MARTIN** was suspected of dealing firearms without a license. He was given a verbal warning wherein he was advised that if he wanted to sell firearms, he needed to apply for a federal firearms license; however, even with a license, he could not deal firearms at Mary's Swap Meet. He acknowledged that he understood and advised that he would just sell ammunition and gun parts.

7. **MARTIN** came to ATF attention again in 2020, after a firearm that he had purchased was recovered at a crime scene in Mexico. On February 10, 2020, agents hand-

delivered a cease-and-desist letter to **MARTIN** at his residence at 12609 Flagstone Court, Oklahoma City, Oklahoma. **MARTIN** signed the letter acknowledging its receipt and notification to stop dealing firearms in violation of federal law.

8. On July 23, 2022, agents surveilling **MARTIN** and T.F.'s activities at Mary's Swap Meet observed the two conducting the business of firearm and ammunition sales from a table there. They also observed a shed immediately behind the table, the doors of which were open with firearms attached thereto on display. Within the shed, agents observed multiple storage containers, which appeared to contain additional merchandise for sale by **MARTIN** and T.F.<sup>1</sup>

9. On July 30, 2022, ATF agents acting in an undercover capacity made contact with **MARTIN** and T.F. at their table at Mary's Swap Meet, confirming their identities. During this interaction, an agent purchased a Taurus, model G3C, 9mm caliber pistol, bearing serial number ACM629688 for \$550.00 from **MARTIN** and T.F., who were working in tandem. Notably, pistols of the same brand and model are typically priced at approximately \$300.00 at most retail stores, including Bass Pro Shop and Academy Sports and Outdoors, two large firearms dealers operating and conducting business in the Western District of Oklahoma.

10. Although **MARTIN** claimed that the firearm was part of T.F.'s private

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<sup>1</sup> Additional surveillance on July 30, 2022; November 5, 2022; January 28, 2023; and May 20, 2023, revealed a consistent manner of operation by **MARTIN** and his associates – firearms for sale on display on the table and affixed to the open doors of the shed, with multiple storage containers visible inside the shed. When agents conducted surveillance on May 13, 2023, **MARTIN** was not present at Mary's Swap Meet. The shed was instead secured with a lock bar and three security locks. Based upon my training and experience, I believe that the shed was secured because it contained valuable items, which may include ammunition, firearm parts and accessories, and possibly assembled firearms.

collection, T.F. later advised the agent that it was new and had never been fired. When another agent remarked that the Taurus was the only one of its kind on the table, **MARTIN** told the agent to “come back tomorrow” and then offered to meet him in north Oklahoma City to sell him another Taurus.

11. On November 5, 2022, ATF agents acting in an undercover capacity purchased three additional firearms from **MARTIN** and T.F. at Mary’s Swap Meet. Each was sold for considerably more than standard retail value.

12. On May 13, 2023, an ATF agent acting in an undercover capacity contacted **MARTIN** utilizing a telephone number from a business card that **MARTIN** provided during the July 2022 purchase referenced *supra*. Prior to the call, agents set up surveillance at **MARTIN**’s residence – 12609 Flagstone Court, Oklahoma City, Oklahoma – and confirmed that **MARTIN** was at home and working in the garage.

13. The undercover agent conducted a recorded phone call to **MARTIN** and inquired about purchasing a firearm. **MARTIN** advised that he had a Taurus 9mm caliber pistol and told the undercover agent to meet him at the 7-Eleven at NW 122nd Street and Council – located at 12237 North Council Road, Oklahoma City, Oklahoma. This business is less than half of a mile from **MARTIN**’s residence. Agents responded to the 7-Eleven to conduct surveillance.

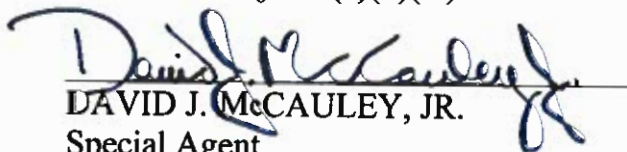
14. At approximately 1:15 p.m., agents observed **MARTIN** drive away from his residence in a white 2017 Toyota 4Runner with bearing Oklahoma license plate IVN576. Upon arrival at the 7-Eleven, **MARTIN** met with the undercover agent and retrieved a Taurus, model G3C, 9mm caliber pistol, bearing serial number ADB003971, from the vehicle. **MARTIN** also provided the agent with a 50-round box of Remington 9mm

ammunition, which he withdrew from the rear seat of the vehicle. The agent paid **MARTIN** \$500.00 for the firearm and ammunition. **MARTIN** encouraged the agent to come see him at Mary's Swap Meet to get more ammunition the following weekend.

15. On May 20, 2023, SA McCauley responded to Mary's Swap Meet and observed **MARTIN** and an unknown white male conducting business at the same location where they were previously observed selling firearms and ammunition.

16. On May 26, 2023, ATF SA Brian Anderson, a Firearms Interstate Nexus Examiner, examined the firearms purchased from **MARTIN**. It is his opinion based upon his observations that the firearms were not manufactured in Oklahoma and therefore crossed state lines to reach Oklahoma, thereby affecting interstate or foreign commerce.

17. Based upon the aforementioned facts and circumstances, I believe that probable cause exists that on or about July 30, 2022, within the Western District of Oklahoma, **Phillip Niles MARTIN**, did deal in firearms without a license, in violation of 18 U.S.C. § 922(a)(1)(A). Further, I believe that probable cause exists that on or about May 13, 2023, within the Western District of Oklahoma, **Phillip Niles MARTIN**, did deal in firearms without a license, in violation of 18 U.S.C. § 922(a)(1)(A).

  
DAVID J. McCAULEY, JR.  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms and  
Explosives

Sworn and subscribed before me this 30<sup>th</sup> day of May, 2023.

  
AMANDA MAXFIELD GREEN  
United States Magistrate Judge  
Western District of Oklahoma